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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
GARY JAMES ROLLER, )  
 )  
Defendant. )  
 )  
 )  
 )  
 )  
 )

No. CR 08-00361(A) RMW

**STIPULATION AND [ ]  
ORDER SETTING TRIAL DATE ON  
MAY 30, 2011, AND EXCLUDING  
TIME FROM MARCH 28, 2011 TO  
JUNE 13, 2011, FROM CALCULATIONS  
UNDER THE SPEEDY TRIAL ACT (18  
U.S.C. § 3161)**

The parties hereby request that the Court enter this order setting a trial date for June 13, 2011, and excluding time from March 28, 2011 to June 13, 2011. The parties, including the defendant, stipulate as follows:

1. The defendant understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18 U.S.C. § 3161, for the period from March 28, 2011 to June 13, 2011 based upon the need for the defense counsel to investigate further the facts of the present case and determine what, if any, additional motions and defenses are appropriate. Defense counsel is currently preparing multiple substantive motions and anticipates filing them either the week of

1 March 14 or March 21, 2011. In order to provide the government adequate time to respond to  
 2 these motions and the Court to consider them, the parties believe that a continuance is  
 3 appropriate. Moreover, the federal grand jury in San Jose, California, returned a second  
 4 superseding indictment on February 9, 2011. The government produced discovery related to the  
 5 second superseding indictment that same day. Defense counsel and defendant need additional  
 6 time to review and examine this new discovery. In addition, defense counsel will be involved in  
 7 several criminal matters, including a trial, in the next few months and will require additional  
 8 time to prepare for trial. Further, government counsel will be working on multi-issue appeal  
 9 before the Ninth Circuit in April and May 2011. Therefore, for effective preparation of defense  
 10 counsel and continuity of counsel, the parties respectfully request that the Court vacate the  
 11 current trial date of March 28, 2011, set a June 13, 2011 as the date for trial in this matter and  
 12 June 2, 2011 as the date for the pretrial conference in this case.

13 2. The attorney for defendant joins in the request to exclude time under the Speedy Trial  
 14 Act, 18 U.S.C. § 3161, for the above reasons, and believes the exclusion of time is necessary for  
 15 effective preparation of the defense and continuity of defense counsel; believes the exclusion is  
 16 in the defendant's best interests; and further agrees that the exclusion under the Speedy Trial  
 17 Act, 18 U.S.C. § 3161, should be for the period from March 28, 2011 to June 13, 2011.

18 Given these circumstances, the parties believe, and request that the Court find, that the  
 19 ends of justice are served by excluding from calculations the period from March 28, 2011 to June  
 20 13, 2011 outweigh the best interests of the public and the defendant in a speedy trial under the  
 21 Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) & (B)(iv).

22 IT IS SO STIPULATED.

23 DATED: March 9, 2011

24 /s/ Richard Pointer  
 RICHARD POINTER  
 Attorney for Defendant

26 DATED: March 9, 2011

27 /s/ Hanley Chew  
 HANLEY CHEW  
 Assistant United States Attorney  
 Attorney for Plaintiff

**[] ORDER**

Having considered the stipulation of the parties, the Court finds that: (1) the defendant understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18 U.S.C. § 3161, from March 28, 2011 to June 13, 2011, based on the need for the defense counsel to investigate further the facts of the present case, review the discovery that the government has already provided and will provide and evaluate further possible defenses and motions available to the defendant and otherwise prepare for trial; (2) the exclusion of time is necessary for effective preparation of the defense and continuity of counsel and is in the defendant's best interests; and (3) the ends of justice are served by excluding from Speedy Trial calculations the period from March 28, 2011 to June 13, 2011.

Accordingly, the Court further orders that (1) trial in this case be scheduled for June 13, 2011 at 1:30 p.m. and pretrial conference in this case be scheduled for June 2, 2011 at 2:00 p.m.; and (2) the time from March 28, 2011 to June 13, 2011 is excluded from time calculations under the Speedy Trial Act, 18 U.S.C. § 3161.

IT IS SO ORDERED.

DATED: 3/16/11

  
THE HONORABLE RONALD M. WHYTE  
United States District Court Judge